

Appl. No. 10/612,254



PATENT APPLICATION


*IN THE UNITED STATES PATENT AND TRADEMARK OFFICE*

*Group*  
*Art Unit:* 3652  
  
*Attorney*  
*Docket No.:* 121046-0001  
  
*Applicant:* Michael LAMBRIGHT  
  
*Invention:* SPARE TIRE STORAGE APPARATUS  
  
*Serial No.:* 10/612,254  
  
*Filed:* July 2, 2003  
  
*Examiner:* Gregory Adams

Certificate Under 37 CFR 1.8(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

on October 6, 2008

  
Michael S. Gzybowski

REPLY BRIEF

Commissioner of Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

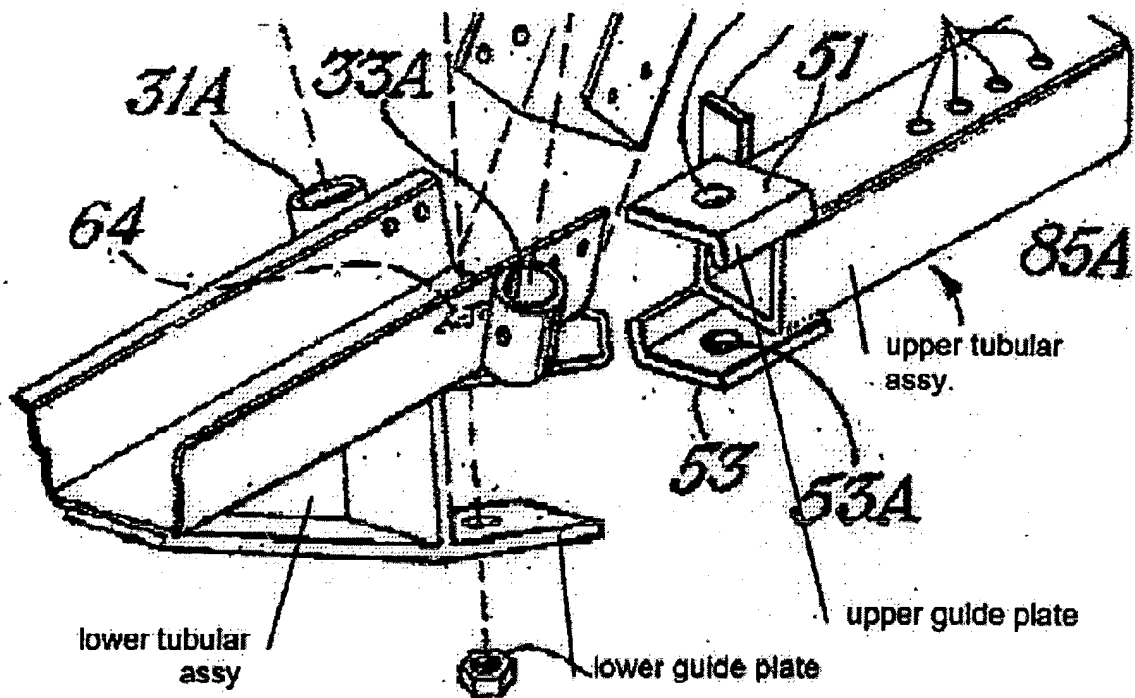
Sir:

In response to the Examiner's Answer mailed August 18, 2008 appellant submits the following:

In the table bridging pages 4 and 5 of the Examiner's Answer the Examiner has identified appellant's claimed "lower tubular member" as

"FIG.7: (that structure defined by wall 23, 61 & 63."

On page 6 the Examiner has included the following figure:

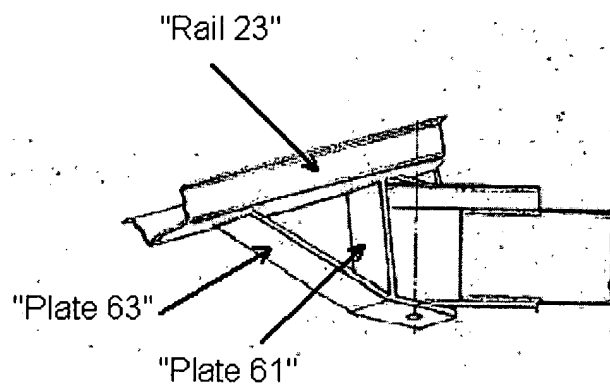
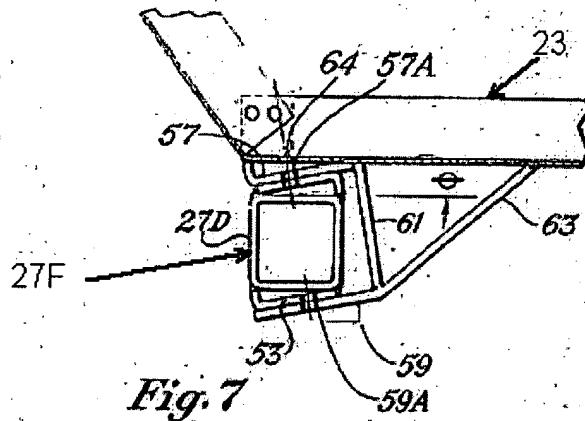


On page 6 the Examiner states:

With respect to FIG. 6 reproduced below Chandler discloses tubular structure defined by plates 23, 61 & 63 clearly define tubular structure, i.e. "consisting of a tube".

The figure provided by the Examiner fails to show the Examiner's "plates 23, 61 & 63."

Accordingly, appellant is including the following Figs. adopted from Chandler which show plates 61 and 63 and rail 23:



It is uncomprehendable to appellant as to how the Examiner perceives that one skilled in the art would interpret the collective structure of plates 61 and 63 and rail 23 of Chandler to "consist" of a tube.

MPEP 2111 states in part that:

During patent examination, the pending claims must be "given their broadest reasonable interpretation consistent with the specification."

And:

The broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach.

Appellant respectfully submits that the interpretation of appellants' pending claims that the Examiner is using to read on the collective structure of plates 61 and 63 and rail 23 of Chandler is unreasonable both with respect to appellant's specification and with respect to the interpretation that those skilled in the art would reach.

#### CONCLUSION

For the reasons advanced above and those set forth in appellant's Brief on Appeal, appellant respectfully contends that the rejection of claims 1, 3, 5-9, 11, and 13-22 under 35 U.S.C. §102(b) as being anticipated by Chandler is improper because Chandler does not anticipate the limitations of appellant's claimed invention.

Reversal of the rejection on appeal is respectfully requested.

To the extent necessary, a petition for an extension of time under 37 CFR §1.136 is hereby made. Please charge the fees due in connection with the filing of this paper, including extension of

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time fees, to Deposit Account No. 12-2136 and please credit any excess fees to such deposit account.

Respectfully submitted,



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